

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to undercover law enforcement driver's licenses

The Department of Transportation hereby amends Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.189A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.189A and 321.196 and 6 CFR Section 37.11(i).

Purpose and Summary

This rule making aligns the expiration date for a driver's license issued to an undercover law enforcement officer to the applicable expiration date listed in Iowa Code section 321.196 and amends the chapter's implementation sentence.

Currently under subrule 625.3(2), the Department issues driver's licenses to undercover law enforcement officers with a two-year expiration date. However, under Iowa Code section 321.196, a non-undercover law enforcement officer applicant may be issued a driver's license with up to an eight-year expiration date.

Federal REAL ID regulation, 6 CFR Section 37.11(i), provides that states may issue REAL ID driver's licenses to undercover law enforcement officers and specifies that the REAL ID credentials issued to undercover law enforcement officers shall not be distinguishable from other REAL ID credentials issued by the state.

By restricting an applicant who would be otherwise eligible for an eight-year driver's license to a two-year license, just because the applicant is an undercover law enforcement officer, there is a risk of inadvertently identifying the law enforcement officer as undercover just by the credential expiration date. In most cases, an undercover law enforcement officer applying under non-covert status would typically be eligible for an eight-year credential.

By amending this subrule, the Department will bring the credential issuance length in line with other driver's licenses issued to non-undercover law enforcement applicants and avoid the risk of identifying the credential holder as an undercover law enforcement officer just by virtue of the expiration date listed on the credential.

In accordance with Iowa Code section 321.189A, the Department consulted with the Department of Public Safety on this rule making and it was supportive of these amendments.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5100C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 8, 2020.

Fiscal Impact

In FY 2019, the Department issued approximately 24 driver's licenses to undercover law enforcement officers. Each of these licenses has a two-year expiration date. If the licenses were increased to an eight-year expiration date at a cost of \$4.00 per each year of license validity, the Department estimates the amendment will result in approximately \$768 (\$32 x 24) being deposited annually into the Statutory Allocations Fund.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 625.3(2) as follows:

625.3(2) ~~A two-year~~ The license will be issued with an applicable expiration date as provided in Iowa Code section 321.196. The applicant must pay all fees and meet all requirements for the class of license applied for, except that rule 761—601.5(321) is waived in accordance with the provisions in 6 CFR ~~Part 37~~ 37.11.

ITEM 2. Amend **761—Chapter 625**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3, ~~and 321.189A and~~ 321.196 and 6 CFR Part 37.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.